
From: Neusel, Conor P.
Sent: Monday, August 10, 2020 9:39 AM
To: Licare, Imee C.
Cc: Abramov, Hope K.
Subject: RE: Union Tank Car Company12–RC–221465 - election
Attachments: Voting Plan.png; Alternative Voting Plan.png

Imee,

As we discussed on Friday, Union Tank Car Company is in the process of evaluating whether it will appeal the Board's decision to order that the election results be set aside and a new election take place. Frankly, we think there is a strong argument that it was virtually impossible to conclude that Union Tank Car's conduct affected the election results.

If there is to be another vote, Union Tank Car Company is adamant that the vote should be conducted in-person. Employees come to work at the facility every day for their work shifts and we see no reason why the vote needs to be conducted by mail-in ballot. In order to ensure that an in-person vote is conducted in a safe manner, we have prepared a plan (see attached and below) to have the vote outside beneath a tent that will be erected in the parking lot of the facility. Here is our proposal:

- The tent will be open on all four sides.
- There will be a table beneath the tent where the balloting will occur.
- Hourly employees will be released in small groups during their shifts in order to go vote.
- Once released, hourly employees will line up in the parking lot, staying at least 6 ft. away from each other.
- There will be markings on the ground indicating where employees must stand in line.
- Each employee will be provided with their own pencil without an eraser to mark their ballot.
- The Board agent and each observer will also be situated outside the tent, sitting at least 6 ft. apart at separate tables.
- The Company will provide plexiglass barriers of sufficient size to protect the observers and Board Agent to separate observers and the Board Agent from voters and each other, preelection conference and ballot count attendees, as well as masks, hand sanitizer, gloves and wipes for the observers.
- Only one voter will approach the observers' tables and election booth at a time to ensure social distancing.
- Ballots will then be deposited in the ballot box that will be located at the exit of the voting area and visible to the Board Agent and both observers.
- All voters, observers, party representatives, and other participants should wear CDC-conforming masks in all phases of the election, including the pre-election conference, in the polling area or while observing the count. Signs will be posted in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives and other participants of this requirement.
- Between shifts, the ballot area will be sanitized.

No earlier than 48 hours before the election but no later than 24 hours before the election, the Company will:

- Certify in writing that the polling area is consistently cleaned in conformity with established CDC hygienic and safety standards;
- Certify in writing how many individuals have been present in the facility within the preceding 14 days, who:
 - have tested positive for COVID-19 (or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested) within the prior 14 days;
 - are awaiting results of a COVID-19 test;
 - are exhibiting symptoms of COVID-19, including a fever of 100.4 or higher, cough, or shortness of breath; or
 - have had direct contact with anyone in the previous 14 days who has tested positive for COVID-19 (or who is awaiting test results for COVID-19 or has been directed by a medical professional to proceed as if they have tested positive for COVID-19, despite not being tested).

If the vote cannot be held outside because of inclement weather on the proposed date of the election, then we have another alternative plan to have the vote inside the facility in a conference room that has an entrance from outside the facility and an exit that goes into the plant. If necessary, Union Tank Car can setup the vote according to the attached alternative plan and in conformance with the NLRB General Counsel Memorandum GC 20-10. Note that the Company has not regularly used this conference room since the beginning of the pandemic.

Since March, the Company has had a total of 15 individuals test positive for COVID-19. The last time any of those employees was at the facility was on July 30th. Since the Company has instituted a face-coverings policy, there has been

a marked decrease in cases. The Company has also instituted routine sanitization of the areas in the facility that are frequently used by employees.

Lastly, per your request, the Company pays hourly employees on a weekly basis.

Please let us know whether the Region will be amenable to conducting the vote by in-person balloting pursuant to the attached plan.

Thank you,

Conor P. Neusel

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From: Licare, Imee C.
Sent: Wednesday, August 5, 2020 1:02 PM
To: Neusel, Conor P.
Cc: Abramov, Hope K.
Subject: Union Tank Car Company12–RC–221465 - election

Conor,

This is a follow-up to our conversation yesterday. As discussed, the Region is looking at an early September 2020 election but wants to get the parties respective proposals on the date of the election.

If the Employer is going to propose a manual rather than a mail ballot election, please provide details about safety procedures in place including the following information:

- Location, size of the election room (dimensions), room layout or description, diagram
- How the proposed location/room is being prepared for the safety of all parties involved (employees/voters, election observers, Board agent), i.e. sanitizing, distance markings on the floors, etc.
- Without providing any names, have any employees tested positive for COVID 19 or, to the Employer's knowledge, have any employees been exposed to individuals who tested positive? If so, how many employees?

We also need information about the payroll period. Do employees get paid weekly or bi-weekly? What is the date of the last payroll period that ended as of today (cut-off date to be adjusted as necessary pursuant to the R-Case Manual).

Please provide the above information as soon as possible but in any event no later than noon tomorrow, Thursday, August 6, 2020. Thank you.



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E-File Case Documents: <https://apps.nlr.gov/eservice/efileterm.aspx>

E-File New Charge or Petition: <https://apps.nlr.gov/eservice/efileterm.aspx?app=chargeandpetition>

E-File Tech Support: Send an Email to e-filing@nlrb.gov

The NLRB now requires electronic filing of documents.

Written instructions for using the Agency's E-Filing System and the Agency's Electronic Filing Terms and Conditions policy are posted on the Agency's website. See: <https://apps.nlrb.gov/myAccount/assets/E-Filing-System-User-Guide.pdf>

For a Video Demonstration - step-by-step instructions: See:

https://apps.nlrb.gov/myAccount/assets/My%20Account%20Portal%20Overview/story_html5.html

For Frequently Asked Questions – See: <https://apps.nlrb.gov/myAccount/#/FileCaseDocument/FAQ>

Important/Witness Notice – Witnesses, if we need to discuss evidence or facts in the case for which you are involved, **then please call – rather than email me.** If the case is litigated, then my office may be obligated to produce your email discussion of evidence and/or facts as your “adopted statements.” If your adopted statement conflicts with your sworn testimony at trial then opposing counsel can possibly discredit or impeach your trial testimony. For these reasons, please save all discussions about facts or evidence for our in-person or telephonic meetings.



